WP(C) 3572/2007
BEFORE
HON'BLE MR. JUSTICE RANJAN GOGOI

Heard Mr PJ Saikia, learned counsel for the writ petitioner. None has appeared on behalf of respondent Nos. 2,3,4 and 5.

The writ petitioner having effected personal service of notice on the respondent Nos. 2,3,4 and 5, as permitted by the Court has filed an affidavit showing compliance and by the order dated 22.8.2007 this Court had accepted service of notice on respondent Nos. 2 to 5. In the above circumstances, the Court is proceeding to decide this writ petition finally at the admission stage.

The petitioner who claims to the highest bidder in respect of Demow Weekly Market is aggrieved by the settlement granted in favour of the respondent No. 5 at a lower offer of Rs. 88,101/- against the higher offer of Rs. 95,201/- as made by the petitioner. According to the petitioner, acceptance of a lower offer under Rule 47 of the Assam Panchayat (Financial) Rules, 2002 would require prior approval of the Government which has not been done in the instant case. In the above circumstances, the settlement granted in favour of the respondent No.5 has been contended to be legally unsustainable.

The averments made in writ petition have not been controverted by the respondents. In fact, the respondents, inspite of due service of notice, have chosen to stay away from the Court. In such a situation, the Court is left with no option but to proceed on the basis of the uncontroverted statements appearing in the writ petition.

While it is always open for the respondent authority to accept a lower offer, the authority would be duty bound to assign cogent reasons for rejecting a higher offer. In the present case, no such reasons or grounds are forthcoming. That apart, no material has been placed before the Court to show compliance with the provisions of Rule 47(10) of the Assam Panchayat (Financial) Rules, 2002.

In view of the above, the irresistible conclusion that has to be drawn is that the impugned settlement made in favour of the respondent No.5 is bad in law. The said settlement is, therefore, set aside and the respondent authority is directed to pass fresh orders of settlement by considering the cases of eligible candidates including the petitioner. This will be done within a period of seven days from the date of receipt of a certified copy of this order.

With the aforesaid directions, the writ petition stands disposed of.